Calendar No. 1004

99TH CONGRESS *2d Session*	SENATE	REPORT 99-494

TO AMEND TITLE 38, UNITED STATES CODE, TO PROVIDE FOR CERTAIN VETERANS' ADMINISTRATION BENEFITS, WHICH ARE PAID BASED ON THE SERVICE-CONNECTED DISABILITY OR DEATH OF A VETERAN, TO BE PAID IN ACCORDANCE WITH LAWS ADMINISTERED BY THE VETERANS' ADMINISTRATION AND TO PROVIDE FOR CERTAIN VETERANS' ADMINISTRATION INSURANCE POLICY LOANS TO BE MADE AND REVOLVING FUNDS TO BE ADMINISTERED IN ACCORDANCE WITH SUCH LAWS, AND TO PROVIDE FOR VETERANS' ADMINISTRATION HOME LOAN GUARANTY REPORTS UNDER CERTAIN CIRCUMSTANCES; AND FOR OTHER PURPOSES

REPORT

OF THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2885

SEPTEMBER 27 (legislative day, SEPTEMBER 24), 1986.—Ordered to be printed

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99TH CONGRESS
2d Session

SENATE

REPORT
99-494

AMENDING TITLE 38, UNITED STATES CODE, TO PROVIDE FOR CERTAIN VETERANS' ADMINISTRATION BENEFITS, WHICH ARE PAID BASED ON THE SERVICE-CONNECTED DISABILITY OR DEATH OF A VETERAN, TO BE PAID IN ACCORDANCE WITH LAWS ADMINISTERED BY THE VETERANS' ADMINISTRATION AND TO PROVIDE FOR CERTAIN VETERANS' ADMINISTRATION INSURANCE POLICY LOANS TO BE MADE AND REVOLVING FUNDS TO BE ADMINISTERED IN ACCORDANCE WITH SUCH LAWS, AND TO PROVIDE FOR VETERANS' ADMINISTRATION HOME LOAN GUARANTY REPORTS UNDER CERTAIN CIRCUMSTANCES; AND FOR OTHER PURPOSES

SEPTEMBER 27 (legislative day, SEPTEMBER 24), 1986.—Ordered to be printed

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Mr. MURKOWSKI, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany S. 2885]

The Committee on Veterans' Affairs reports favorably on an original bill to amend title 38, United States Code, to provide for certain Veterans' Administration benefits, which are paid based on the service-connected disability or death of a veteran, to be paid in accordance with laws administered by the Veterans' Administration and to provide for certain Veterans' Administration insurance policy loans to be made and revolving funds to be administered in accordance with such laws, and to provide for Veterans' Administration home loan guaranty reports under certain circumstances; and for other purposes, and recommends that the bill do pass.

COMMITTEE BILL

The text of the original bill ordered reported and being reported is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or a repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be

considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. BENEFITS BASED ON SERVICE-CONNECTED DISABILITY OR DEATH

(a) BURIAL BENEFITS.—Section 907 is amended—

(1) by inserting "(a)" before "In"; and

(2) by adding at the end the following new subsection:

"(b) Benefits under this section shall be provided, except as otherwise provided by a law enacted in express limitation of this subsection, in accordance with this section and other laws administered by the Veterans' Administration and without regard to any law providing for the cancellation of authority to make payments.".

(b) SPECIALLY ADAPTED HOUSING AND MORTAGE PROTECTION LIFE INSURANCE.—(1) Chapter 21 is amended by adding at the end of the following new section:

"§ 807. Laws governing benefits

"Benefits under this chapter shall be provided, except as otherwise provided by a law enacted in express limitation of this section, in accordance with this chapter and other laws administered by the Veterans' Administration and without regard to any law providing for the cancellation of authority to make payments.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end of the following new item:

"807. Laws governing benefits.".

(c) REHABILITATION SERVICES AND ASSISTANCE.—During fiscal year 1987, benefits under chapter 31 of title 38, United States Code, shall be provided, except as otherwise provided by a law enacted in express limitation of this subsection, in accordance with such chapter and other laws administered by the Veterans' Administration and without regard to any law providing for the cancellation of authority to make payments.

(d) AUTOMOBILES AND ADAPTIVE EQUIPMENT.—(1) Chapter 39 is amended by adding at the end of the following new section:

"§ 1905. Laws governing benefits

"Benefits under this chapter shall be provided, except as otherwise provided by a law enacted in express limitation of this section, in accordance with this chapter and other laws administered by the Veterans' Administration and without regard to any law providing for the cancellation of authority to make payments.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1905. Laws governing benefits.".

(e) EXCLUSION OF CERTAIN BENEFITS FROM THE COMPUTATION OF REDUCTIONS IN BUDGET ACCOUNTS.—(1) In the computation of the amount by which any budget account from which the payment of benefits under section 907 or chapter 21 or 39 of title 38, United States Code, is made must be reduced during a fiscal year pursuant to a law providing for the cancellation of authority to make payments, the amount included in such account for the payment of such benefits during such fiscal year shall be excluded.

(2) In the computation of the amount by which the budget account from which the payment of benefits under chapter 31 of such title is made must be reduced during fiscal year 1987 pursuant to a law providing for the cancellation of authority to make payments, the amount included in such account for the payment of such benefits during such fiscal year shall be excluded.

SEC. 3. VETERANS' INSURANCE POLICY LOANS

(a) Subchapter IV of chapter 19 is amended by adding at the end the following new section:

"§ 789. Laws governing making of loans

"Loans under any insurance program administered by the Administrator shall be made, except as otherwise provided by a law enacted in express limitation of this section, in accordance with this chapter and other laws administered by the Veterans' Administration and without regard to any law providing for the cancellation of direct loan obligations.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"789. Laws governing making of loans.".

SEC. 4. REVOLVING FUNDS

(a) SPECIAL THERAPEUTIC AND REHABILITATION ACTIVITIES FUND.—Section 618(c) is amended by inserting at the end the following new paragraph:

"(4) Moneys in the fund shall be paid, except as otherwise provided by a law enacted in express limitation of this paragraph, in accordance with this section and other laws administered by the Veterans' Administration and without regard to any law providing for the cancellation of authority to make payments.".

(b) CANTEEN SERVICE REVOLVING FUND.—Section 4205 is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end the following new subsection:

"(b) Moneys in the revolving fund shall be expended, except as otherwise provided by a law enacted in express limitation of this subsection, in accordance with this chapter and other laws administered by the Veterans' Administration and without regard to any law providing for the cancellation of authority to make payments.".

SEC. 5. HOME LOAN GUARANTY REPORTS

In the event that a final order issued by the President pursuant to a law providing for the cancellation of loan guarantee commitments imposes a limitation on the total amount of loans that may be guaranteed under chapter 37 of title 38, United States Code, in any fiscal year, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a monthly report (not later than the tenth day of each month during the remainder of such fiscal year following the issuance of such final order) providing the following information:

(1) The total amount of the loans for which commitments of guaranties were made under such chapter during the preceding month.

(2) The total amount of the loans for which commitments were made during the fiscal year through the end of such preceding month.

(3) The Administrator's estimates as to the total amounts of the loans for which commitments would, in the absence of any limits on commitments or guaranties, be made during (A) the month in which the report is required to be submitted, and (B) the succeeding months of the fiscal year.

SEC. 6. EFFECTIVE DATE

The amendments made by and the provisions of this Act shall take effect on October 1, 1986.

INTRODUCTION

On March 12, 1986, Senator Frank H. Murkowski, Chairman of the Committee, introduced S. 2186 for himself and five original co-sponsors including Committee Members Thurmond, Specter, and Denton, as well as Senators Abdnor and Hawkins. S. 2186 was subsequently co-sponsored by Senators Melcher, Sarbanes, Simon, Burdick, Andrews, Mattingly, Hollings, Warner, D'Amato, Durenberger, Wilson, and Nickles. As introduced, S. 2186 would have exempted from any sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 certain benefits for service-connected disabled veterans, as follows: benefits payable to patients participating in the Veterans' Administration compensated work therapy program; specially adapted housing benefits and mortgage protection life insurance for certain severely disabled veterans; burial benefits for veterans who die as a result of service-connected disability; vocational rehabilitation training and assistance benefits for veterans whose service-connected disabilities are rated 50-percent or more disabling; and automobile and adaptive equipment grants for certain severely disabled veterans and members of the Armed Forces. The exemptions would have applied prospectively to any sequestration order issued for a fiscal year after fiscal year 1986.

S. 2187 was introduced on March 12, 1986 by Committee Member Dennis DeConcini and was subsequently co-sponsored by Committee Member Matsunaga and Senators Sarbanes, Simon, Andrews, Burdick, Kennedy, Chiles, D'Amato, and Hollings. As introduced, S. 2187 would have exempted from any sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 certain benefits based on service-connected disability or death, as follows: specially adapted housing and mortgage protection life insurance for certain severely disabled veterans; burial benefits for veterans who die as a result of service-connected disability; vocational rehabilitation training and assistance; educational assistance for the dependents of veterans with service-connected disabilities rated total and permanent and for the survivors of certain service-connected disabled veterans; and automobile and adaptive-equipment grants for certain severely disabled veterans and members of the Armed Forces; and would have excluded from any sequestration computation for any budget account from which these benefits are paid, the amount necessary to pay for these benefits are paid, the amount necessary to pay for these benefits. The exemptions

would have applied prospectively to any sequestration order issued for a fiscal year after fiscal year 1986.

Both S. 2186 and S. 2187 were referred to the Committee on Governmental Affairs.

S. 2423 was introduced on May 8, 1986 by Veterans' Affairs Committee Member DeConcini and was referred to the Committee on Veterans' Affairs. As introduced, S. 2423 would have first, required that certain benefits based on service-connected disability or death—those covered by S. 2187 (described above)—be provided without regard to any law canceling the authority to make payments, except as provided by a law enacted in express limitation of the exemption provision; second, excluded from any sequestration computation for any budget account from which these benefits are paid, the amount necessary to pay for these benefits; third, required that loans made under any insurance program administered by the VA be made without regard to any law canceling the authority to make direct loan obligations, except as provided by a law enacted in express limitation of the exemption provision; fourth, required that money in the Special Therapeutic and Rehabilitation Activities Fund and the Canteen Service Revolving Fund be paid without regard to any law canceling the authority to make payments, except as provided by a law enacted in express limitation of the exemption provision; and fifth, required that a home loan made to an eligible veteran be guaranteed by the VA without regard to any law canceling the authority to make loan guarantee commitments, except as provided by a law enacted in express limitation of the exemption provision. These exemptions would have applied prospectively to any sequestration order issued for a fiscal year after fiscal year 1986, except the amendments for veterans' insurance policy loans and home loan guaranties would be retroactive to the effective date of the fiscal year 1986 sequestration order.

On March 17, 1986, the Committee requested the VA and the Office of Management and Budget to provide their views regarding S. 2186 and S. 2187 and on May 13, 1986, their views regarding S. 2423. The Committee received the VA's comments on all three bills on June 12, 1986.

On May 20, 1986, the Committee held a hearing to receive testimony on certain VA benefits-related and health-care-related bills, including S. 2423 and the subject matter of S. 2186 and S. 2187. Although neither S. 2186 nor S. 2187 had been referred to the Committee, the substance of both bills affected VA benefits and programs and they therefore considered by the Committee. Testimony was received on the subject matter of these three bills from representatives of The American Legion, the Veterans of Foreign Wars of the United States, the Disabled American Veterans, AMVETS, and the Paralyzed Veterans of America. Although the VA was requested to submit written testimony on S. 2186, S. 2187, and S. 2423 by June 3, 1986, no testimony on these bills was received from the VA.

On June 26, 1986, after reviewing the testimony and the VA's comments, the Committee met in open session and by voice vote ordered to be reported to the Senate as a clean bill a "Committee Print", incorporating provisions derived from S. 2186, S. 2187, and S. 2423 to exempt certain VA benefits, programs, and revolving

funds from sequestration pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985. The clean bill is being reported by the Chairman on behalf of the Committee.

Summary of S. 2885 as Reported

S. 2885 as reported (hereinafter referred to as the "Committee bill") includes provisions which, effective on October 1, 1986, would:

1. Exempt from a sequestration order, except as otherwise expressly provided by law, certain benefits based on service-connected disability or death so that the benefits provided to or on behalf of the veteran would not be reduced. Benefits to be exempted from sequestration would include:

   (a) burial benefits for veterans who die, as a result of service-connected disability;

   (b) specially adapted housing benefits and mortgage protection life insurance for veterans;

   (c) rehabilitation services and assistance for veterans (for fiscal year 1987 only); and

   (d) automobile and adaptive-equipment benefits for veterans.

   In the computation of the amount to be sequestered during any fiscal year from the account from which these benefits are paid, the amounts for the payment of these exempted benefits during that fiscal year would be excluded.

2. Exempt from a sequestration order, except as otherwise expressly provided by law, loans made on insurance policies issued under insurance programs administered by the VA.

3. Exempt from a sequestration order, except as otherwise expressly provided by law, payments from two revolving funds—the VA's Special Therapeutic and Rehabilitation Activities Fund and the VA's Canteen Service Revolving Fund.

4. Require the Administrator of Veterans' Affairs, during any fiscal year in which the President issues a sequestration order limiting the total amount of VA home loan guaranty commitments that may be made during that year, to submit to the House and Senate Committees on Veterans' Affairs, monthly reports providing information on the VA's home loan guaranty program commitment activity to date and estimates of commitment activity for the remainder of the fiscal year.

Discussion

BACKGROUND

Public Law 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985 (commonly referred to as "Gramm-Rudman-Hollings"), established emergency procedures to reduce the federal deficit to zero by fiscal year 1991. That law specifies maximum permissible deficits at successively lower levels for each of fiscal years 1986 through 1990 and a fiscal year 1991 maximum of zero.

In any fiscal year in which the estimated deficit exceeds the maximum by more than $10 billion, reductions sufficient to eliminate the entire "excess deficit" are generally required to be made across-the-board in resources for federal programs. The reductions

are made through a sequestration process. Under a Presidential sequestration order, half of the reductions in outlays necessary to eliminate the excess deficit must come from non-defense programs, generally through the sequestration (cancellation) of various budgetary resources—including budget authority, entitlement spending authority, and credit authority—by a uniform percentage in each non-defense budget account. The other half must come from the application of sequestration to defense accounts.

On the non-defense side, the law exempts certain accounts from sequestration and provides limitations on, and special rules for, the sequestration of certain other accounts. Thus, for example, section 255(b) of the Act provides general exemptions from any sequestration order for the veterans' compensation and pension programs. In the case of the exemption for compensation, the exempted programs include disability compensation paid to veterans, which is generally intended to replace the average earning capacity lost as the result of the type and severity of the veteran's service-connected disability, and dependency and indemnity compensation (DIC) paid to the survivors of those who die from a service-connected disability, which is intended to replace the veteran's support of his or her dependents. In the case of the exemption for pension, the exempted programs include income maintenance for needy wartime veterans who are over age 65 or totally and permanently disabled and for needy survivors of wartime veterans.

The Act did not provide exemptions for other VA entitlement programs for which eligibility is based upon a veteran's service-connected disability or death, although it did establish special protection for certain VA medical care account expenditures, *i.e.*, it limited reductions in non-administrative costs under that account to 1 percent in FY 1986 and 2 percent in each of fiscal years 1987 through 1991.

On January 15, 1986, the Office of Management and Budget and the Congressional Budget Office issued a joint sequestration report for fiscal year 1986 to the Comptroller General of the United States in accordance with the provisions of Public Law 99-177. They recommended a 4.3-percent reduction for all VA accounts which were not exempted nor subjected to a special rule. The Comptroller General's January 21, 1986, Report to the President and the Congress on Budget Reductions for FY 1986 made no change to the joint report for veterans' programs.

Service-Connected Benefits

On February 3, 1986, the Sequestration Order for fiscal year 1986 was issued by message of the President to become effective on March 1, 1986. Under the sequestration order, the following amounts for VA benefit programs were sequestered:

[In millions]

Vocational Rehabilitation	$4.4
Specially Adapted Housing Grants	.6
Mortgage protections life insurance	.2
Automobiles and adaptive equipment	.5
Service-connected burial benefits	.4

The VA has implemented the sequestration reductions for these benefit programs to ensure compliance with the 4.3-percent annualized sequestration reduction imposed by the Order. In so doing, the VA made the following reductions in benefit payments being made during the period March 1 through September 30, 1986:

—13.1-percent reduction in subsistence payments for veterans enrolled in vocational rehabilitation training; with no reduction in payments for tuitions, fees, books, supplies or equipment;
—7.9-percent reduction ($2,840) in specially adapted housing grants;
—7.9-percent reduction ($400) in automobile and adaptive equipment grants; and
—7.75-percent reduction in burial benefits.

Insurance Programs

Section 255(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 also exempted from sequestration, prior legal obligations of the government for the following VA insurance accounts:

National service life insurance (NSLI);
Service-disabled veterans insurance (S-DVI);
Servicemen's group life insurance (SGLI);
United States Government life insurance (USGLI);
Veterans insurance and indemnities (VI & I);
Veterans reopened insurance (VRI); and
Veterans special life insurance (VSLI).

However, section 251(a)(3)(F)(iv)(I) of the Act did not expressly exempt new direct loan obligations.

The VA has implemented the sequestration reductions for these VA insurance accounts by requiring specific limitations where necessary to comply with the sequestration order. The VA has maintained insurance policy loan interest rates at 11 percent for the remainder of fiscal year 1986 rather than decreasing the rate to 9 percent as it had been planned. U.S. Government Life Insurance loans are not affected by restriction on interest rates since the interest rate for policy loans for this program is statutorily limited to 5 percent. Interest on insurance policy loans represents interest which a veteran must pay on a loan made to the veteran under the terms of the insurance policy for which the veteran has paid premiums.

The VA has also restricted the issuance of new policy loans, by limiting the percentage of reserve (cash) value that an eligible veteran may borrow against his or her life insurance policy for the USGLI, VRI, and S-DVI insurance programs because the VA estimated that even with the continuation of an 11-percent interest rate, the new policy loan obligations for these funds would exceed the sequestration loan limitation. Although an eligible veteran would be entitled by the terms of the insurance policies and VA regulations applicable to the USGLI, S-DVI, and VRI programs to borrow a maximum of 94 percent of the reserve value of the policy, the VA has reduced the maximum percent of reserve available for borrowing to the following:

[In percent]

USGLI program	10
VRI program	59
S-DVI	76

These restrictions became effective on April 1, 1986, and the VA published notice of them in the Federal Register on May 22, 1986.

The Chairman and Ranking Minority Members of the Senate and House Committees on Veterans' Affairs sent a joint letter to the Comptroller General of the United States on April 15, 1986, requesting the Comptroller General to "reconsider . . . [his] . . . determination that veterans' insurance policy loans were properly required to be sequestered." Additionally, the Comptroller General was requested to "re-examine . . . whether the Federal Government's pre-existing contractual obligations under the involved insurance policies to make policy loans are . . . '[p]rior legal obligations of the Government' and, therefore, exempt from sequestration under section 255(g)(2) of Public Law 99-177". Also, if the Comptroller General concluded that no exemption was provided for by that legislation, he was requested to determine: (1) Whether sequestration of these loans is a violation of the Constitution, and (2) whether "capitalized interest" should have been excluded from the direct loan limitation baseline for the VA insurance accounts. The joint letter and attachments follow:

Congress of the United States

Washington, D.C. 20510

April 15, 1986

Honorable Charles A. Bowsher
Comptroller General of the United States
General Accounting Office
Washington, D.C. 20548

Dear Charles,

We are writing in connection with the sequestration of direct loans that would otherwise be made to veterans in FY 1986 under their VA-administered insurance policies. This issue was among those raised by Representative Montgomery, Chairman of the House Committee on Veterans' Affairs, in his January 16 and March 6 letters to you.

In Appendix C of your January 21, 1986, report, under section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), you determined that, with certain exceptions unrelated to any Veterans' Administration accounts, the "amount of the required sequestering for each account ... is the amount shown in the [January 15 report of the Directors of the Office of Management and Budget and Congressional Budget Office]". The Directors of OMB and CBO, on pages 112-14 of their joint report to you, had provided for the FY 1986 sequestration of veterans' insurance-policy loans as follows:

Account Title, Category	Sequestration Baseline	Sequestration
1. Veterans insurance and indemnities Direct Loan Limitation	$ 115,000	$ 5,000
2. Veterans reopened insurance fund Direct Loan Limitation	5,970,000	257,000
3. Service-disabled veterans insurance fund Direct Loan Limitation	6,911,000	297,000
4. National service life insurance fund Direct Loan Limitation	102,610,000	4,412,000
5. United States government life insurance fund Direct Loan Limitation	1,630,000	70,000
6. Veterans special life insurance fund Direct Loan Limitation	11,870,000	510,000

With respect to the insurance policies in categories 1, 4, and 6, above, according to the VA, the demand for insurance policy loans in FY 1986 has been substantially less than projected when the baseline figure was estimated and the VA is staying within the limitations by keeping the interest rates at artificially high levels (11 percent).

In the other categories, in order to reduce the total amounts of the loans that would otherwise be made in accordance with the terms of the insurance policies affected, the VA has decided, contrary to the terms of the veterans' insurance policies, to reduce the percentage of the policies' reserve (cash) values that policy holders may borrow. For example, as described in the enclosed March 17, 1986, memorandum prepared by the VA Regional Office and Insurance Center in Philadelphia, the maximum amount for United States Government Life Insurance (USGLI) policy loans has been reduced to 10 percent of the reserve value -- compared to 94 percent as specified in the USGLI policies.

Before the decision to restrict insurance policy loans was made, however, the VA's General Counsel issued a February 14, 1986, opinion (which was later withdrawn but the reasoning of which was not repudiated) analyzing issues relating to the constitutionality of the VA restricting or terminating USGLI and National Service Life Insurance (NSLI) policy loans and increasing policy-loan interest rates in order to discourage loan applications. The General Counsel concluded that "the proposed restriction of NSLI and USGLI policy loans would represent an unjustified intrusion on vested property rights and would be subject to challenge as violative of fifth-amendment protections." With respect to policy-loan interest rates, he concluded that, since USGLI rates are fixed by statute (38 U.S.C. 744(c)), the VA lacks authority to alter that rate administratively and that "an increase in NSLI policy-loan interest rates could not ... be justified on the sole basis of reducing outlays to deal with the [federal] budget deficit." We see no distinction between a decision to increase policy-loan interest rates for such a reason and a decision made for that same purpose not to reduce the rates to the levels at which the VA would ordinarily reduce them in keeping with its legal responsibilities under the insurance programs. Copies of that opinion and the February 19 memorandum withdrawing it are enclosed.

We request that you reconsider, in light of the analysis and conclusions expressed by the VA General Counsel, your January 21 apparent determination that veterans' insurance policy loans were properly required to be sequestered. In doing so, we urge that you re-examine the question of whether the Federal Government's pre-existing contractual obligations under the involved insurance policies to make policy loans are, as we believe, "[p]rior legal obligations of the Government" and, therefore, exempt from sequestration under section 255(g)(2) of Public Law 99-177. In this regard, we note that, in your February 7, 1986, response to Chairman Montgomery, you stated that, in light of section 255(g)(2), you "do not anticipate that the requirements of the Act will violate the government's existing contractual commitments under these [insurance] programs." We have been unable to

square this statement with your earlier determination that veterans' insurance policy loans must be sequestered.

If you determine that an exemption for these insurance policy loans is not provided for in section 255(g)(2), we ask that you determine whether the sequestration of these loans is, as the General Counsel's opinion indicates, a violation of the Constitution. In connection with any analysis of the constitutionality of sequestering veterans insurance-policy loans, we believe that it is important to note that sequestration of these loans will have extremely little or no impact on federal deficits.

We also request that you determine a narrower issue which was raised in the March 17, 1986, memorandum prepared by the VA Regional Office and Insurance Center. This issue concerns the propriety of including "capitalized interest" in the direct loan limitation sequester baseline for each of the VA insurance accounts. According to the VA, "[c]apitalized interest [which makes up a major portion of the USGLI and NSLI direct loan limitation sequester baselines] represents the annual interest charged on all outstanding loans issued to policyholders since the inception of the program. ... The interest is automatically capitalized by the [Automated Data Processing] ADP system and the total amount, whether it is paid by the policyholder or not, is included ... as part of the total loan obligation amount." We believe that the inclusion of any such capitalized interest in the insurance accounts' direct loan limitation sequester baseline, which resulted in a much larger reduction of new loans under the sequester order, reflected a misinterpretation of Public Law 99-177. Surely, a deficit reduction effort should not entail a reduction in the amount of interest payable to the Government.

Even should you consider that you have no authority to amend your January 21 report, we believe that the President clearly does have the authority and obligation to amend his sequestration order whenever he determines that it is contrary to law or in violation of the Constitution and that your views on these issues could be a strong influence in this regard.

In any event, we believe that it would be advisable for you to review these issues at the present time in order to help avoid any repetition of a mistake that you may find was made under the enormous time pressures under which you were required to prepare your January 21 report.

We appreciate your continuing cooperation on these matters and look forward to receiving your response at your earliest opportunity.

Cordially,

Frank H. Murkowski
Chairman

Alan Cranston
Ranking Minority Member

Senate Committee on Veterans' Affairs

G.V. (Sonny) Montgomery
Chairman

John Paul Hammerschmidt
Ranking Minority Member

House Committee on Veterans' Affairs

Enclosures

File

Veterans Administration

Memorandum

Date FEB 14 1986

From General Counsel (022)

Subj Contemplated Restrictions on NSLI and USGLI Policy Loans

To Chief Benefits Director (20)

1. You have requested our opinion as to whether the Veterans Administration has legal authority to restrict or terminate the granting of policy loans on contracts of National Service Life Insurance (NSLI) and United States Government Life Insurance (USGLI). You also ask whether the VA may increase policy-loan interest rates for the purpose of discouraging loan applications. In our view, constitutional and other considerations severely circumscribe the Agency's ability to alter current practices regarding NSLI and USGLI policy loans.

2. The Federal courts have long recognized that veterans' insurance policies are contracts of the United States. E.g., Lynch v. United States, 292 U.S. 571, 577 (1934); White v. United States, 270 U.S. 175, 180 (1926). The United States is bound by its contracts to the same extent as private individuals. Perry v. United States, 294 U.S. 330, 351 (1935); Sinking Fund Cases, 99 U.S. 700, 719 (1878). Such contracts "are property and create vested rights." Lynch, 292 U.S. at 577; cf. United States Trust Co. v. New Jersey, 431 U.S. 1, 19 n.16 (1977) (private contract rights are a form of property). Although the clause of the Constitution prohibiting impairment of contracts, article I, § 10, does not apply to Federal action, Sinking Fund, 99 U.S. at 718, deprivation of contractual rights by the Federal government is restricted by the due process and just compensation clauses of the fifth amendment. Id. at 718-19; Lynch, 292 U.S. at 579; Thorpe v. Housing Authority, 393 U.S. 268, 278 n.31 (1969). These restrictions apply to administrative as well as legislative action affecting contractual rights. Thorpe, 393 U.S. at 280 n.35. Contractual obligations may be impaired "by a law which renders them invalid, or releases or extinguishes them" or one which, without destroying the contract, "derogate[s] from substantial contractual rights." Id. at 279; Home Building & Loan Association v. Blaisdell, 290 U.S. 398, 431 (1934).

3. The VA is obligated under its permanent policies of NSLI and USGLI to grant policy loans essentially on demand. Section 706 of United States Code title 38 authorizes the Administrator to promulgate regulations establishing NSLI policy provisions

governing loan values and such other provisions as may be found reasonable and practicable. Similarly, section 744(a) of title 38 authorizes regulations to provide in USGLI contracts for loan values and such other provisions for the protection and advantage of insureds and beneficiaries as may be found reasonable and practicable. Regulations governing NSLI and USGLI policies, issued pursuant to this authority provide that under specified conditions "the United States will lend to the insured" any amount not exceeding 94 percent of the policy reserve or cash value. 38 C.F.R. §§ 6.100 and 6.101 (USGLI), and 8.28(a) (NSLI) (emphasis supplied). These directory regulations are considered a part of the Agency's contract of insurance. See United States v. Williams, 302 U.S. 46, 50 (1937); Lynch, 292 U.S. at 577; 38 C.F.R. § 8.108 (NSLI regulations constitute part of contract); see also policy provisions, e.g., VA Form 9-1661-30 (Aug. 1948), para. 18, stating insurance is subject to regulations. Permanent NSLI and USGLI policies contain language specifically providing that the insured may obtain a loan not exceeding 94 percent of the policy reserve if certain conditions are met. E.g., VA Form 9-1661-30, para. 8 (NSLI); VA Form 9-749 (Sept. 1958), para. 5(d) ("the United States will lend") (USGLI).

4. Any attempt to modify these contractual obligations by restricting the availability or amount of policy loans must be considered in terms of its consistency with fifth amendment protections. The Supreme Court has generally accorded only minimal scrutiny to Federal actions affecting contractual obligations between private parties. E.g., National Railroad Passenger Corp. v. Atchison, Topeka & Santa Fe Railway Co., 105 S. Ct. 1441, 1455 (1985); Fleming v. Rhodes, 331 U.S. 100 (1947); Norman v. Baltimore & Ohio Railroad Co., 294 U.S. 240, 307-10 (1935). However, the Court has recognized that a stricter standard may be necessary where the Federal government seeks to repudiate or alter its own contractual obligations. National Railroad Passenger Corp., 105 S. Ct. at 1455 n.24; Perry, 294 U.S. at 350-51; Norman, 294 U.S. at 306.

5. Some alteration of the Federal government's contractual obligations is permitted. Modifications have been approved by the Court where substantial contractual rights were not impaired. For example, in White, supra, the Court approved a statutory amendment retroactively enlarging the permitted class of War Risk Insurance beneficiaries. However, the Court reasoned that since beneficiaries had no contractual rights to insurance benefits, their interests were subject to the actions of the contracting parties. 270 U.S. at 180. Because the

change was considered consistent with the intention of the insured no transgression of vested rights was found to have occurred. The Court noted that veterans' insurance was a new experiment in which changes might be found necessary or feasible to carry out the will of the insured. 270 U.S at 180. The reasoning of White was relied on in Singleton v. Cheek, 284 U.S. 493 (1932), which also involved a retroactive amendment concerning payment of policy proceeds. As in White, the change, although it altered contract terms, could not be considered an impairment of the insured's interest. In the later Lynch case, the Court noted a number of technical or liberalizing modifications to veterans' insurance statutes which did not implicate constitutionally-protected rights of policyholders. 292 U.S. at 577 n.3, 578 n.4; see also A.D. No. 762 (1947) (finding statutory enlargement of NSLI contract rights applicable to holders of existing contracts).

6. However, in the Lynch decision, the Court proscribed statutory modification of contractual rights when the attempted modification would rescind rights granted the insured under a policy. See also Perry, supra, where the court invalidated a law altering the method of payment to the holder of a government bond. In so doing, the Court rejected the position that a contract provision making the policy subject to governing statutes and regulations, as amended, permitted amendments impairing rights granted insureds under the policies. 292 U.S. at 577-78. Similar language is found in present 38 C.F.R. §§ 6.40 and 8.108 and NSLI and USGLI policy terms. Although the Court has not in recent years overturned a Federal law as impairing contractual obligations, this is presumably attributable to careful statutory and regulatory draftsmanship rather than retreat from the principles relied on in Lynch and Perry. The continued validity of those principles was recognized in United States v. Larionoff, 431 U.S. 864, 879 (1977), where the Court indicated its reluctance to interpret a statute as depriving a servicemember of compensation for services already performed. See also National Railroad Passenger Corp., 105 S. Ct. at 1455, 1455 n.24.

7. The Court has indicated that the fifth amendment's protection of contractual rights is not absolute, but may yield where paramount Federal power or important national interests are involved. Larionoff, 431 U.S. at 880; Lynch, 292 U.S. at 579. Such interests could include the Federal police power or national defense. Lynch, 292 U.S. at 579; cf. Rhodes, supra, (contractual obligation between private parties invalidated where national defense implicated). However, the financial interest of the Government is not considered a sufficient basis

for impairment of contractual obligations. In Lynch, the Court stated flatly "Congress was without power to reduce expenditures by abrogating contractual obligations of the United States." 292 U.S. at 580 (quoted in Perry, 294 U.S. at 352); cf. United States Trust Co., 431 U.S. at 29 (contract clause case - a state cannot refuse to meet its financial obligations simply because it would prefer to spend the money to promote the public good rather than the private welfare of its creditors).

8. Several additional factors may be relevant to the validity of Federal action affecting contractual rights, including the extent of the intrusion on established rights, see Lynch, supra, and the harshness or arbitrariness of the Government's action, see Railroad Retirement Board v. Alton Railroad Co., 295 U.S. 330, 357 (1935); United States Trust Co., 431 U.S. at 17 n.13. Whether the Government has sought to make accommodations to lessen the impact of its actions on those whose rights are affected may be of significance. See United States Trust Co., 431 U.S. 29-31. In assessing administrative action affecting contractual rights, a court may consider whether the action is reasonably related to the purposes of enabling legislation under which the action is taken. Thorpe, 393 U.S. at 280-81. Finally, whether the presence of the affected contractual provision may have induced a party to enter a contract with the Government may be relevant in determining whether substantial rights are affected by modification of the provision. See Op. Sol. 70-53.

9. In light of the principles discussed above, this office has in the past expressed disapproval of several proposals thought to encroach on the Government's contractual obligations under the veterans' insurance programs, such as charging administrative costs or extra hazard costs to the NSLI and USGLI trust funds, or restricting conversion or renewal privileges. See, e.g., Op. Sol. 81-53 (Government could enlarge but not restrict scope of coverage). Although the Department of Justice Office of Legislative Affairs raised no constitutional objections to legislation which became Pub. L. No. 97-66, § 403(a), 95 Stat. 1026, 1031 (1981), changing the manner of payment of benefits under NSLI and USGLI policies, that modification of contract terms is readily distinguishable from the current proposal concerning policy loans. In the former case, the modification in question was considered minor and a reasonable attempt to effectuate the intention of the typical policyholder. Further, notice was to be provided to insureds to permit them to alter beneficiary designations in contemplation of the proposed change.

Chief Benefits Director (20)

10. In contrast, the proposal to restrict policy loans impairs what must be considered a substantial right of the policyholder under the insurance contract. In this regard, we note that literature describing the veterans' insurance programs makes reference to loan privileges which may have induced veterans to acquire or maintain their policies. E.g., VA Pamphlet 29-3 (rev. 1970), p. 4. In any event, withdrawal or limitation of the loan privilege clearly conflicts with the understanding and intention of the insured upon entering the contract. The rationale of White that veterans' insurance is a new program requiring adjustment cannot now be considered relevant. Further, action based solely on budgetary factors cannot be considered reasonably related to the purpose of the veterans' insurance statutes, which are intended to provide a measure of financial security for veterans and their beneficiaries. See Stafford v. United States, 128 F. Supp. 435, 437 (W.D. La. 1955); A.D. No. 806 (1949). See also 38 U.S.C. § 744(a) (USGLI policy loan provisions to be established for the protection and advantage of the insured and beneficiaries). These considerations, as well as the apparent absence of measures to accommodate the interests of the insureds and the fact the funds available for policy loans were contributed by the insureds rather than Government appropriations, emphasize the arbitrary nature of the proposed action. Finally, the Governmental interest underlying the proposal, being financial in nature, cannot, under the principles discussed above, be considered adequate to justify derogation of contractual policy-loan rights. Thus, we believe the proposed restriction of NSLI and USGLI policy loans would represent an unjustified intrusion on vested property rights and would be subject to challenge as violative of fifth-amendment protections.

11. Turning to the alternative of raising interest rates on policy loans in order to discourage borrowing, we note policy-loan interest rates under the USGLI program are fixed by statute at an annual rate of 5 percent. 38 U.S.C. § 744(c). The VA is without authority to alter this rate administratively, and any such action would be invalid. See Miller v. United States, 294 U.S. 435 (1935).

12. Statutes governing NSLI insurance do not prescribe policy-loan interest rates, leaving this to the discretion of the Administrator under the general rulemaking authority of 38 U.S.C. § 706. This discretion is preserved under implementing regulations, 38 C.F.R. § 8.28(a), and under the terms of permanent NSLI policies which state '[t]he loan will bear interest at a rate to be determined by the Administrator.' Interest

rates for new loans are currently fixed at 11 percent. 38 C.F.R. § 8.28(d).

13. Despite the Administrator's discretion to establish NSLI policy-loan rates, his authority in this area is not completely unfettered. Establishment of prohibitively high interest rates for the purpose of discouraging loan applications would likely be considered a derogation of substantial contractual rights of insureds to obtain loans and would be subject to challenge on the same basis as a flat restriction on policy loans. A moderate increase in loan rates, which could result in a marginal reduction in the number of loan applications, would be more defensible from a constitutional standpoint, but would be subject to some legal restrictions.

14. Under the terms of 38 U.S.C. § 706, regulations governing NSLI are required to be reasonable and practicable. In evaluating whether regulations meet this standard, we must consider the objectives of the NSLI statutes, the purpose of policy-loan interest, and the Administrator's responsibility as trustee of the NSLI fund. As noted above, the principle objective of the NSLI program is to provide a measure of security to veterans and their beneficiaries. Modification of interest rates to meet Federal budgetary objectives unrelated to the NSLI program, rather than to aid policyholders or to preserve the integrity of the NSLI trust fund, could be considered inconsistent with the purposes of the program and thus unauthorized.

15. Reference to the purpose of policy-loan interest is instructive in assessing the reasonableness of any action affecting interest rates. As stated by Justice Holmes in Board of Assessors v. New York Life Insurance Co., 216 U.S. 517, 522 (1910), policy loan interest is intended to represent the estimated amount the borrowed funds would have earned had they been retained and invested by the insurer. See also 75 Op. Sol. 351 (1944). Thus, the interest insures that the granting of loans in no way impairs the funds available to pay insurance claims. Consistent with this principle, the VA, in establishing the current 11 percent interest rate, expressed its intention to maintain the interest rate on NSLI policy loans at slightly below rates charged in private money markets. 46 Fed. Reg. 38,690 (1981). Administrative action raising interest rates above the rate which could be obtained by investment of the funds would be inconsistent with the commonly accepted purpose of policy-loan interest.

Chief Benefits Director (20)

16. Finally, section 720 of title 38 establishes the NSLI Fund as a permanent trust fund to be administered by the Administrator and the Secretary of the Treasury. The VA has recognized that as trustee of this fund the Administrator is subject to equitable trust principles applicable to trustees of private trusts. See A.D.No. 804 (1949). Among these principles is the requirement that, in matters affecting the trust, a trustee bear an unwavering loyalty to the trust beneficiaries, to the exclusion of all other interests. N.L.R.B. v. Amax Coal Co., 453 U.S. 322, 329 (1981); Restatement (Second) of Trusts § 170 (1) (1957). Under this principle, the interests of NSLI insureds and beneficiaries must be the paramount consideration in setting policy-loan interest rates.

17. Accordingly, an increase in NSLI policy-loan interest rates could not in our view be justified on the sole basis of reducing outlays to deal with the budget deficit. Other considerations could, however, provide some basis for modification of NSLI loan rates. In particular, changes in the return available on trust-fund investments could provide a basis for amendment of loan rates. Other possible rationales include limitation of borrowing to preserve policy values for the protection of beneficiaries and enhancement of funds available as potential dividends for all policy-holders. We leave to your discretion whether these considerations would justify changes in NSLI policy-loan rates at the present time.

Donald L. Ivers

DONALD L. IVERS

FEB 19 1986

General Counsel (022)

Return of February 14, 1986, memorandum re Contemplated Restrictions on NSLI and USGLI Policy Loans
Chief Benefits Director (20)

1. Please return the original and all copies of my memorandum to you of February 14, 1986, captioned "Contemplated Restrictions on NSLI and USGLI Policy Loans."

2. Although we believe the memorandum presents a legal argument that might well prevail if raised in litigation, our continuing review of the provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 convinces us that the authority for interpreting the Act rests in the first instance with the Office of Management and Budget (OMB) and Congressional Budget Office (CBO) and, ultimately, with the Comptroller General of the United States. While the legal discussion in our memorandum may ultimately be found to be correct, the provisions of the Act, and any future Comptroller General interpretations may alter the legal framework within which our opinion was drafted. Furthermore, such an attempt to interpret the Act would contravene Congress' expressed intent to place the responsibility for deciding such questions solely within the authority of OMB and CBO and, ultimately, the Comptroller General.

3. Accordingly, please return the original and all copies of our February 14 memorandum and take appropriate steps to insure that the discussion therein is not viewed or expressed as the Agency's position on the issues presented.

4. Your cooperation in this matter is appreciated.

DONALD L. IVERS

MAXIMUM LOAN VALUES AVAILABLE TO POLICYHOLDERS
AS A RESULT OF THE BALANCED BUDGET AND
EMERGENCY DEFICIT CONTROL ACT

As a result of the Gramm-Rudman legislation, an obligation limitation was imposed on the United States Government Life Insurance (USGLI) program for policy loans in the amount of $1,563,000. This line item in the budget consists of two components. The first is disbursed money, that is, new loans made to policyholders. The second item is interest which is charged on all outstanding loans in the program. This interest is automatically added to the loan on the anniversary date of the loan. The total amount of interest charged to all outstanding loans is included in the program's financial statement as part of the total loan obligation amount. The only way that this interest charged could be reduced would be by reducing the interest rate or by deferring the charging and billing of interest until after October 1.

In the USGLI program we currently estimate that $1,193,000 in interest has been or will be added during the current fiscal year. As of March 31, 1986, we will have lent out $313,000 in new loans to USGLI policyholders. Consequently, we are already committed to $1,506,000 in loan obligations for this program. That leaves us a balance of $57,000 which may be lent to policyholders from April 1, 1986 through September 30, 1986. We further estimated that the average reserve value for the policies that we receive loan applications on for the balance of the year is $3,400. In order to grant loans to each of the 138 policyholders whom we expect to submit applications during the remainder of the year, we could only lend them 10 percent of the maximum loan value to ensure that we do not lend more than $47,000 (with a $10,000 margin for errors in either the number of loans or amount of interest added) that is still available under the ceiling imposed by OMB.

A similar process was also used in arriving at maximum loan values that could be granted in the Veterans Reopened Insurance (VRI) program in order to continue lending money through the fiscal year. A spreadsheet is attached which provides a summary of the estimated amount of new money lent through March 31 of the fiscal year, together with the total estimated interest that will be charged in each program and how the combined total relates to the total obligation limitation for the year.

Prepared by:
VAROIC, Philadelphia, PA
March 17, 1986

INSURANCE POLICY LOAN OBLIGATIONS

The loan obligation line item which was sequestered by the Gramm-Rudmann legislation consists of two components; disbursed money and capitalized interest. The disbursed money represents new loans made to policyholders during the year. Capitalized interest represents the annual interest charged on all outstanding loans issued to policyholders since the inception of the program. The interest is added (capitalized) to the principal balance on the anniversary date of the loan each year. The interest is automatically capitalized by the ADP system and the total amount, whether it is paid by the policyholder or not, is included in the program's financial statement as part of the total loan obligation amount.

Since capitalized interest is not controllable, all of the sequestered funds must be taken from disbursed money (new loans). For the USGLI program, new loans represented only 29 percent of the total estimated loan obligations in the FY 87 Budget Submission for the current fiscal year.

The attached chart represents the current status of the three programs that are expected to reach the ceiling.

	NEW LOANS THROUGH 2/28/86	ESTIMATED CAPPED INTEREST FY 1986	TOTAL	FY 1986 OBLIGATION LIMITATION	BALANCE AVAILABLE FOR NEW LOAN DISBURSEMENTS 3/1/86 to 9/30/86	PROJECTED SHORT FALL
USGLI (K)	$ 255,000	$1,193,000	$1,448,000	$1,563,000	$ 115,000	$290,000
VRI (J)	$1,623,000	$2,412,000	$4,035,000	$5,715,000	$1,680,000	$647,000
SDVI (RH)	$1,771,000	$2,468,000	$4,239,000	$6,614,000	$2,375,000	$354,000

The Comptroller General, in his July 29 response to the joint letter from the Chairmen and Ranking Minority Members of the Senate and House Veterans' Affairs Committees, noted that the questions that they had raised were also involved in a lawsuit brought in federal court by the Paralyzed Veterans of America in which he is a defendant and, on that basis, declined to state his views on the issues. This letter follows.

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-221498.33 *July 29, 1986*

The Honorable Frank H. Murkowski
Chairman, Committee on Veterans' Affairs
United States Senate

Dear Mr. Chairman:

This is in response to your April 15, 1986, request, co-signed by the Ranking Minority Member of the Senate Committee on Veterans' Affairs and the Chairman and Ranking Minority Member of the House Committee on Veterans' Affairs, concerning the sequestration of direct loans under insurance programs administered by the Veterans' Administration (VA). You ask that we reconsider our determination, as indicated in our January 21, 1986, report under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), that new veterans' insurance policy loans are required to be sequestered.

Subsequent to your request, the Comptroller General was named as a defendant in a lawsuit filed by the Paralyzed Veterans of America in the United States District Court for the District of Columbia. That lawsuit relates specifically to the very issues raised in your letter. In light of the fact that the matter is now before the District Court, we would not consider it appropriate to comment on the merits of the claim asserted by the plaintiff.

We will be glad to provide you with our views once this legal action has been resolved. We should note, however, that the Comptroller General's role under Public Law 99-177 was invalidated by the Supreme Court's recent decision in Bowsher v. Synar, 54 U.S.L.W. 5064 (July 7, 1986). Following that decision, the responsibility for making reductions in all programs, including those at issue in the present case, was exercised by the Congress itself, through passage of House Joint Resolution 672.

Sincerely yours,

for Milton J. Socolar
Comptroller General
of the United States

However, the Committee has received copies of views from the General Counsel of the Office of Management and Budget and the Congressional Budget Office where were solicited by the General Accounting Office. Those views are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

June 4, 1986

Mr. James F. Hinchman
Deputy General Counsel
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Hinchman:

I am writing in response to your letter of May 19th to Jim Miller concerning the treatment of insurance policy loans by the Veterans Administration under the Balanced Budget and Emergency Deficit Control Act.

As noted in your letter, OMB, CBO and GAO agreed in January that new policy loans from certain VA insurance programs were subject to sequestration. This treatment was reflected in the January 15th OMB/CBO Report and confirmed by the Comptroller General's Report of January 21st. The President's February 1st order duly implemented the conclusion in the GAO report.

By its terms, the Gramm-Rudman-Hollings Act does not provide for correction or amendment of the Comptroller General's Report or of the President's Order, which is required to be consistent with the GAO report in every respect. There is no exception in the Act allowing for revisions, regardless of size. Without regard to the question whether amendments to the GAO Report could be made prior to issuance of the President's Order, at this late date there is no provision for change of the fiscal year 1986 sequestration order.

On the substantive issue of the validity of the treatment of the insurance loans in the January 21st report, I note that on May 30th, a lawsuit was filed in the United States District Court for the District of Columbia by the Paralyzed Veterans of America

against the Veterans Administration and the General Accounting Office challenging the sequestration of these programs. Thus, the issue addressed by your letter will be conclusively resolved in court. I note in passing that your letter incorrectly characterizes a February 14, 1986, memorandum of the general counsel as stating the position of the Veterans Administration on this issue. That document has been withdrawn by the general counsel and therefore has no force and effect. The position of the VA is as stated in its May 22, 1986 "Notice" whose issuance apparently prompted the lawsuit.

Sincerely,

John H. Carley
General Counsel

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

Rudolph G. Penner
Director

MAY 29 1986

Mr. James F. Hinchman
Deputy General Counsel
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Hinchman:

In your letter of May 19th to CBO Director Penner, you invited our reaction to the February 14, 1986 memorandum of the Veterans Administration (VA) General Counsel, in which it was concluded that policy loans under certain VA life insurance policies should not have been made subject to sequestration in the CBO-OMB report of January 15, 1986 to the Comptroller General nor by that official in his January 21, 1986 report to the President.

We agree with the conclusion in the VA General Counsel's memorandum.

Sincerely,

Alfred B. Fitt
General Counsel

Revolving Funds

Pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, $100,000 was sequestered from the VA Special Therapeutic and Rehabilitation Activities Fund and $8.1 million was sequestered from the VA Canteen Service Revolving Fund. Since section 255(e) of the Act prohibits the reduction of offsetting receipts and collections, the VA implemented the sequestration order for these two revolving funds by reducing payments (obligations) from both funds. These funds are self-sustaining, require no appropriation, and receive their funding from revenues which offset operating expenses. Since revenues and obligations are equally affected by sequestration there is no reduction in the public debt. The Special Therapeutic and Rehabilitation Activities Fund supports the compensated work therapy program which provides work rehabilitation to disabled veteran patients who work for remuneration under contracts with employers. An employer makes payments to the VA for deposit into this fund and the proceeds of the fund are expended on payments to the veteran participants, and for equipment, transportation, and contract procurement costs of the program. The Canteen Service Revolving Fund finances the provision of necessary merchandise and services at reasonable prices for the benefit of veterans in hospitals, nursing homes, and domiciliaries.

Home Loan Guaranty Program

Gramm-Rudman-Hollings also imposed for the first time, a fiscal year limitation on the total principal amount of the loans that may be guaranteed under VA's home loan guaranty program. The estimated level of activity in the absence of sequestration that was used for purposes of the FY 1986 Sequestration Order was $12 billion. That amount was reduced by 4.3 percent to arrive at the loan limitation cap of $11.47 billion. However, the estimated activity level was substantially understated, in part, because of an unusually high increase in new loan and refinancing activity precipitated by a drop in interest rates and the fact that the VA had not previously been required to monitor closely the credit activity of this fund. The maximum guaranteed-loan limitation has almost been reached at the time the Sequestration Order took effect on March 1, 1986. The VA planned to impose stringent restrictions on the program to reduce loan activity if the limitation was not increased.

To avert an interruption which the VA estimated would otherwise have occurred on or about April 1, 1986, in the making of home loan guaranties, legislation was enacted on March 7, 1986, as Public 99-255 to increase the FY 1986 new loan guarantee commitment limit to $18.2 billion reduced by 4.3 percent ($17.4 billion). Within 2 months, the VA informed the Committee that the increased loan limit would again soon be reached. Thus, legislation was enacted on May 23, 1986, as Public Law 99-322 to increase the FY 1986 new loan guarantee commitment limit to $40 billion reduced by 4.3 percent ($38.3 billion). Neither law exempted the home loan guaranty program from sequestration. The VA projects that this level will be sufficient to continue the operation of the program through the end of the fiscal year.

This remedial legislation was necessary on very short notice on both occasions partly because of the lack of close, accurate monitoring of the program's activity and because of the extremely rapid, unforeseen increase in loan activity during fiscal year 1986.

COMMITTEE BILL

After reviewing the implementation of the Sequestration Order which took affect on March 1, 1986, the Committee has concluded that certain narrowly defined veterans' benefit programs or revolving funds should be exempted from any future sequestration. The Committee has weighed carefully the merits of exempting these programs or funds from any future sequestration within the context of the underlying goal of the Gramm-Rudman-Hollings legislation—to reduce the federal deficit—and has concluded that the exemption of these specific programs or funds would not frustrate the purpose nor intent of this legislation, nor the achievement of ultimate deficit-reduction goals.

The Committee bill would amend title 38, United States Code, for each program or fund the Committee proposes to exempt from any sequestration reduction, with the exception of chapter 31 rehabilitation services and assistance which would be accomplished by a freestanding provision effecting only fiscal year 1987.

Service-Connected Benefits

In section 2, the Committee has selected only those programs which specifically serve the needs of service-connected disabled veterans. This is consistent with the original intent of Congress—to exempt VA compensation for service-connected disabled veterans—and it is inequitable to sequester these programs which are really an extension of compensation benefits.

The programs proposed for exemption include grants for specially adapted housing and for automobiles and adaptive equipment, as well as mortgage protection life insurance, which serve the needs of veterans with certain serious or severe service-connected disabilities, and burial benefits for veterans who die from service-connected causes.

The Committee recommends a 1-year exemption for chapter 31 vocational rehabilitation services and assistance for fiscal year 1987, because the Committee intends to review thoroughly the entire chapter 31 program and eligibility criteria during the next legislative session. This exemption would be provided by a freestanding provision instead of an amendment to chapter 31 of title 38 because of the temporary nature of the exemption provided by the bill.

The Committee bill would provide that the amounts for the payment of these foregoing proposed exempted benefits would be excluded from the sequester-base computations for the accounts from which these benefits are paid, so that other programs, projects and activities in the sequestered accounts would not be prejudiced. This would apply only to fiscal year 1987 for the chapter 31 vocational rehabilitation program exemption, but to all future fiscal years for the remaining program exemptions.

Insurance Programs

Section 3 of the Committee bill would exempt from sequestration direct loan obligations for any insurance program administered by the VA. This provision would allow eligible veterans to once again utilize their entitlement to borrow the full amount authorized by insurance policies and VA regulations, without restrictions being imposed for deficit reduction.

The Committee acknowledges the difficulty presented in implementing the direct loan limitations required by the fiscal year 1986 Sequestration Order for loans on insurance policies administered by the VA. The extent of difficulty is readily apparent by the chronology of events set forth above under the heading "Background" and the reluctance of federal officials then responsible for implementing the Gramm-Rudman-Hollings law to render a legal opinion on the merits of the sequestration of VA insurance policy loans and the implementation policies selected by the VA.

The Committee does not believe that loans on insurance policies for which veterans have paid premiums should be subject to sequestration reductions. An eligible veteran should be allowed, pursuant to the terms of an insurance contract, to borrow the money he or she has paid for insurance.

The Committee believes that the VA's contractual obligations under the terms of the insurance policies to honor the veterans' contractual rights to receive loans on their VA-administered insurance policies clearly should be considered to be "prior legal obligations of the Government" and thus exempt from sequestration pursuant to section 255(g)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Regrettably, the efforts of the Chairman and Ranking Minority Member to remedy this inequity by requesting the Comptroller General to reconsider the propriety of sequestration for the VA insurance accounts and by requesting the VA to explore other options for implementing the sequestration order have been to no avail.

Revolving Funds

Section 4 of the Committee bill would exempt from sequestration the payment of all moneys from two VA revolving funds: the Special Therapeutic and Rehabilitation Activities Fund and the Canteen Service Fund. The bill would prevent a reduction of any payments from these funds. The Committee believes that these self-sustaining revolving funds which receive their revenue from non-governmental entities should not be subjected to reduction of payments since these revolving funds do not contribute to any meaningful deficit reduction.

Home Loan Guaranty Program

Since the FY 1986 Sequestration Order took effect, Congress has authorized two increases for the VA home loan guaranty commitment level to prevent imminent interruption in the program for FY 1986. Thus, Congress has demonstrated its commitment to authorize future increased credit levels if necessary. The Committee

believes, however, that in order for Congress to fulfill this commitment to the VA home loan guaranty program, it must be fully and promptly informed by the VA of the VA home loan activity levels for which a sequestration limitation would apply.

Thus, section 5 of the Committee bill would require the VA to provide the Committees on Veterans' Affairs of the Senate and the House of Representatives with monthly data reports on the VA's loan guaranty activity level whenever a sequestration limitation is imposed on the program.

The Committee recognizes that uncontrollable factors such as economic conditions and varying interest rates make it difficult for the VA to estimate, with certainty, future program activity. The requirement that the VA submit monthly data on the total amounts of loans for guaranteed loan commitments made during the prior month and year-to-date would ensure that the Committees would receive detailed official monthly notice of the loan activity of the program. This will enable the Committees and the VA to monitor closely past program activity and any trends which may affect program activity throughout the remainder of the fiscal year.

This reporting would be required only after a final sequestration order is issued for a fiscal year. Thus, the Committee does not anticipate that this requirement would be burdensome on the VA since the VA would have to monitor this information itself to ensure its compliance with sequestration limitations.

Effective Date

The Committee is proposing to make all the provisions of the Committee bill effective on October 1, 1986.

The Committee also believes that the monthly home loan guaranty reports would be most helpful commencing at the beginning of any fiscal year in which sequestration occurs in the future so the Committee can monitor closely the commitment levels of the program and act promptly to increase the loan guaranty commitment level, if necessary, as was done during this session by Public Laws 99-255 and 99-322 to avert any undue interruption in the operation of the program.

General

All the service organizations which testified at the May 20, 1986, hearing support the exemptions proposed by the Committee bill. The VA opposes any additional exemptions which it believes would result in additional government spending because, although it believes each program is valuable, such exemptions would erode the broad base of programs which are currently subject to sequestration. However, the VA supports exemptions for the VA Special Therapeutic and Rehabilitation Activities Fund and the Canteen Service Revolving Fund since these funds are self-financed and their exemption would not increase the Federal budget deficit.

The Committee believes that the Committee bill will produce fair and equitable results for those veterans and individuals who are directly affected by the exemptions it proposes. The bill would allow the full payment of entitlement benefits provided by these pro-

grams to eligible individuals, unless expressly limited by the subsequent enactment of a law, and it will not result in an undue shifting of the burden of deficit reduction to other federal programs.

Cost Estimate

In compliance with paragraph 11(a) rule XXVI, of the Standing Rules of the Senate, the Committee, based on information supplied by the Congressional Budget Office (CBO), estimates that there would be no net impact on the federal budget which would result from the enactment of the Committee print during the first 5 years following enactment. The Committee notes that it agrees with the reasoning, opinions, and conclusions expressed by CBO in its September 17, 1986, estimate only to the extent of the conclusion that the bill would result in no net impact on the federal budget. The CBO estimate follows:

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

Rudolph G. Penner
Director

September 17, 1986

Honorable Frank H. Murkowski
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The Congressional Budget Office has reviewed the committee draft of a bill to exempt certain Veterans Administration benefits from reduction under Public Law 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985. It is our understanding that the provisions contained in this measure were ordered reported by the Senate Committee on Veterans' Affairs, June 26, 1986.

Based on our review, we believe that enactment of this legislation would have no impact on the manner in which CBO and OMB prepare the sequestration reports required by P.L. 99-177, since the instructions contained in P.L. 99-177 for preparing those reports are not changed by the bill. Further, the sequestration resolution to be considered by the Congress based on the CBO/OMB report will be new legislation and, therefore, not bound by the provisions of this bill. Thus, it is our opinion that the language of this bill will not accomplish the Committee's objective of exempting these programs from sequestration.

Should P.L. 99-177 be amended directly to exempt the programs addressed by this bill from future sequestration, the net impact on the federal budget would still be zero. As long as the deficit targets established by P.L. 99-177 are not changed, any required outlay reductions that are not achieved in the exempted programs would have to be made elsewhere in the budget.

For your information, the outlay reductions resulting from the 1986 sequestration order in the program areas specified in the draft bill are shown below. Also shown are the 1987 reductions in these programs as reflected in the Initial Sequestration Report for Fiscal Year 1987 on August 20, 1986.

	(Outlays in Millions) 1986	1987
Burial Benefits and Miscellaneous Assistance		
Service-Connected Death Benefits	0.4	0.6
Mortgage Protection Life Insurance	0.2	0.3
Veterans' Life Insurance Programs	5.6	2.5 1/
Readjustment Benefits		
Chapter 31 Training	4.4	8.7
Specially Adapted Housing	0.6	1.0
Autos and Adaptive Equipment	0.5	1.0
Special Therapeutic and Rehabilitative Activities Fund	0.1	0.2
Canteen Service Revolving Fund	8.1	14.7

1/ For the purpose of the 1987 and future sequestration reports, CBO considers loans made against the cash value of VA life insurance policies to be exempt from reduction as prior legal obligations of the government under section 255(g)(2) of P.L. 99-177. However, OMB considers obligations for such loans to be sequestrable, because they view the authority to grant such loans as discretionary. The sequestration reduction for 1987, therefore, represents 7.6 percent applied to an average of CBO's estimate of budgetary resources for these accounts ($0.0 million) and the corresponding OMB estimate ($65.0 million).

The budgets of state and local governments would not be affected by this bill.

If you have any questions regarding this estimate, please call me or have members of your staff contact Nina Shepherd (226-2820).

With best wishes,

Sincerely,

Rudolph G. Penner
Director

cc: Honorable Alan Cranston
Ranking Minority Member

Regulatory Impact Statement

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs has made an evaluation of the regulatory impact which would be incurred in carrying out the Committee bill. The results of that evaluation are that the Committee finds that the Committee bill would not entail any significant regulation of any individuals or businesses or result in any significant impact on the personal privacy of any individuals and that the paperwork resulting from enactment would be minimal.

Section-by-Section Analysis of S. 2885 as Reported

Section 1

Would provide that, except as otherwise provided, whenever in the Committee bill an amendment or a repeal is expressed in terms of an amendment to or a repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Section 2

Would amend or affect certain provisions of title 38, United States Code, relating to certain benefits furnished on the basis of a service-connected disability or a death resulting from a service-connected disability, so as to provide that, except as provided by a law enacted in express limitation of the proposed new provision, the benefits shall be provided in accordance with laws administered by the VA and without regard to any law providing for the cancellation of authority to make payments.

The Balanced Budget and Emergency Deficit Control Act of 1985 (title II of Public Law 99-177) (BB&EDCA) is such an existing law providing for the cancellation of an authority to make payments from which these benefits would expressly be made exempt. (The language would also apply to any later-enacted law that met the statutory description.)

The Committee notes that under section 252 of BB&EDCA, the President generally is required to eliminate the deficit excess for a fiscal year, *i.e.*, the amount by which the specified deficit target is expected to be exceeded, "by sequestering" various forms of budget resources. Section 257(7) of BB&EDCA defines "sequester" as "the cancellation of" such resources. Those resources include (1) "spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974", which includes so-called "entitlements" and the authority "to make payments" from revolving funds, and (2) new direct loan obligations. The Committee bill, by providing exemptions from laws providing for the cancellation of authority to make payments (the amendments proposed by sections 2 and 4 of the Committee bill) or the cancellation of direct loan obligations (the amendment proposed by section 3 of the bill), would create exemptions from BB&EDCA.

Subsection (a) of section 2 would amend present section 907 of title 38, relating to the payment of burial and funeral expenses for veterans who die as the result of service-connected disability, to re-

designate the existing provisions as subsection (a) and to add a new subsection (b), as follows:

New subsection (b) of section 907: Would provide that, except as required by a law expressly limiting this new subsection, benefits under section 907 shall be provided without regard to any law that would cancel the authority to make payments.

Paragraph (1) of subsection (b) of section 2 would amend present chapter 21 of title 38, relating to grants to assist veterans who have certain service-connected disabilities in acquiring homes which are adapted to meet the veterans' special needs arising from their disabilities and a program of mortgage protection life insurance benefits for veterans who have received such assistance, to add a new section 807, as follows:

New section 807: Would provide that, except as required by a law expressly limiting this new section, benefits under chapter 21 shall be provided without regard to any law that would cancel the authority to make payments.

Paragraph (2) of subsection (b) of section 2 would amend the table of sections at the beginning of chapter 21 of title 38 to reflect the addition of new section 807 proposed by paragraph (1) of this subsection of the Committee bill.

Subsection (c) of section 2 would provide that, except as required by a law expressly limiting this new subsection, during fiscal year 1987, benefits under chapter 31 of title 38, relating to rehabilitation services and assistance for certain service-connected disabled veterans, shall be provided without regard to any law that would cancel the authority to make payments.

Paragraph (1) of subsection (d) of section 2 would amend present chapter 39 of title 38, relating to assistance for certain service-connected disabled veterans in the purchase of an automobile or other vehicle and the purchase and maintenance of adaptive equipment for the veterans' vehicles, to add a new section 1905, as follows:

New section 1905: Would provide that, except as required by a law expressly limiting this new section, benefits under chapter 39 shall be provided without regard to any law that would cancel the authority to make payments.

Paragraph (2) of subsection (d) of section 2 would amend the table of sections at the beginning of chapter 39 of title 38 to reflect the addition of new section 1905 proposed by paragraph (1) of this subsection of the Committee bill.

Subsection (e) of section 2 would preclude the service-connected benefits which would be exempted by subsections (a) through (d) of this section of the Committee bill—those benefits provided under section 907 or chapter 21 or 39 of title 38, or, in fiscal year 1987, chapter 31 of title 38—from being counted in the computation of the amount of any sequestration of the budget account from which the exempted benefits are paid. This subsection would provide that, in the computation of the amount by which any budget account from which the payment of those benefits is made must be reduced during a fiscal year pursuant to a law providing for the cancellation of authority to make payments, the amount included in that account for the payment of those benefits during that fiscal year (only fiscal year 1987 in the case of chapter 31) shall be excluded.

Section 3

Subsection (a) of section 3 would amend present subchapter IV of chapter 19 of title 38, relating to the administration of VA life insurance programs, to add a new section 789, as follows:

New section 789: Would provide that, except as required by a law expressly limiting this new section, loans under any insurance program administered by the Administrator of Veterans' Affairs shall be made without regard to any law that would cancel the authority to enter into direct loan obligations.

As noted in the description of section 2 of the Committee bill (discussed above), this new section would provide an exemption under the BB&EDCA.

Subsection (b) of section 3 would amend the table of sections at the beginning of chapter 19 of title 38 to reflect the addition of new section 789 proposed by subsection (a) of this section of the Committee bill.

Section 4

Would amend two sections of title 38, relating to two revolving funds, so as to provide that, except as required by a law expressly limiting either or both of the new provisions, moneys in the revolving funds shall be paid or expended without regard to any law that would cancel the authority to make payments.

As noted in the description of section 2 of the Committee bill (discussed above), the amendments proposed to be made by this section would provide exemptions from the BB&EDCA.

Subsection (a) of section 4 would amend section 618(c) of title 38—relating to the special therapeutic and rehabilitation activities fund, a revolving fund from which VA patients participating in the VA's compensated-work-therapy program are paid for work they perform under contracts with firms or organizations which pay into the fund for the work performed—to add a new paragraph (4), as follows:

New paragraph (4) of subsection (c) of section 618: Would provide that, except as required by a law expressly limiting this new paragraph, moneys in the revolving fund shall be paid without regard to any law that would cancel the authority to make payments.

As noted in the description of section 2 of the Committee bill (discussed above), the amendments proposed to be made by this section would provide exemptions from the BB&EDCA.

Subsection (b) of section 4 would amend present section 4205 of title 38, relating to the canteen service revolving fund, which is used to finance the acquisition for re-sale at VA facilities of merchandise necessary for the comfort and well-being of VA patients, to redesignate the existing provisions as subsection (a) and to add a new subsection (b), as follows:

New subsection (b) of section 4205: Would provide that, except as required by a law expressly limiting this new subsection, moneys in the revolving fund shall be expended without regard to any law that would cancel the authority to make payments.

Section 5

Would require the Administrator—in the event that the President, pursuant to a law providing for the cancellation of loan guarantee commitments, issues a final order that limits in any fiscal year the total amount of loans that may be guaranteed under chapter 37 of title 38—to submit to the Committees on Veterans' Affairs a monthly report regarding the impact of the limitation on VA loan guaranty commitments. The reports would be required to be submitted by the tenth of each month, following the month in which the order is issued, throughout the remainder of the fiscal year. Each report would be required to provide the following information:

(1) The total amount of loans for which commitments of guaranties under chapter 37 were made during the preceding month.

(2) The total amount of the loans for which such commitments were made during the fiscal year through the end of the preceding month.

(3) The Administrator's estimates as to the total amounts of the loans for which such commitments would, in the absence of any limits on such commitments or guaranties, be made during (A) the month in which the report is required to be submitted, and (B) the succeeding months of the fiscal year.

A final Presidential order issued pursuant to BB&EDCA that puts a limit on the total amount of VA-guaranteed loan commitments in any fiscal year would trigger the reporting requirement in this section of the Committee bill.

Section 6

Would provide that the amendments made by and the provisions of the Committee bill shall take effect on October 1, 1986, that is prospectively only, beginning with fiscal year 1987.

Record of Votes Cast in Committee

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a record of votes cast in person or proxy by members of the committee on Veterans' Affairs at a June 26, 1986, meeting to consider an Original Committee Print to exempt certain VA benefits, programs, and revolving funds from sequestration of funds pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

The Committee agreed to report the Original Committee Print, without amendment, favorably to the Senate by a voice vote.

Prior to that vote, the Committee did not agree to a motion made by Senator DeConcini to modify the Committee Print so as to exempt from any sequestration order survivors' and dependents' educational benefits and assistance under chapter 35 of title 38, United States Code. The record vote of 6-6 was as follows:

NAYS (6)	YEAS (6)
Frank Murkowski	Arlen Specter
Alan Simpson	Alan Cranston
Strom Thurmond	Spark Matsunaga

Robert Stafford
Jeremiah Denton
Ruby Boschwitz

Dennis DeConcini
George Mitchell
John Rockefeller

AGENCY REPORT

Office of the
Administrator
of Veterans Affairs

Veterans
Administration

JUN 12 1986

Honorable Frank H. Murkowski
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

I am pleased to provide the Veterans Administration's (VA) views on three bills pending before your committee which would exempt certain benefits and activity funds from the impact of the Balanced Budget and Emergency Deficit Control Act of 1985.

S. 2186 and S. 2187 are similar to but less comprehensive than S. 2423, which would have the effect of exempting the following:

- Burial allowances for veterans whose deaths are service connected;
- Grants for specially adapted housing;
- Mortgage protection life insurance;
- Vocational rehabilitation and training;
- Survivors' and dependents' educational assistance;
- Assistance in purchasing automobiles and adaptive automotive equipment;
- Direct loans against policies of veterans' life insurance under programs administered by the VA;
- Laws authorizing the guaranty of home loans;
- The special therapeutic and rehabilitation activities fund; and,
- The Canteen Service revolving fund.

S. 2187 and S. 2423 would also assure that the amounts exempted under the programs and activities they cover are

not considered in determining the sequestration baselines for their respective budget accounts. The life insurance and loan guaranty exemptions in S. 2423 would be retroactive to March 1, 1986, but other provisions in the three bills would be effective only with respect to any future sequestration orders.

The balanced-budget Act was a courageous attempt by the Congress to reduce Federal deficits that adversely affect all Americans, veterans included. The Congress bound itself to either adopt budget resolutions that will eventually eliminate the deficit or, failing that, to authorize broad sequestrations of funds to assure that Federal outlays do not exceed specified targets.

While it was hoped that future sequestrations would not be necessary, the framers of the Act also realized that in the event automatic cuts be required become necessary, they should be as broad (and therefore as shallow) as possible. Protections were included for VA compensation and pension recipients, whose very sustenance may depend upon their monthly benefits, and for overall VA health-care expenditures. However, with some other exceptions (most notably, Social Security) the cuts would be "across the board."

Public support for this plan is in large measure attributable to the breadth of programs subject to sequestration. As long as any resulting dislocation is widely shared, this much-deserved support will remain strong.

For that reason, the Administration opposes any exemptions for veterans' programs now clearly covered by the terms of the Act that would result in additional Government spending. There is no question but that home loan guaranties, burial allowances, vocational rehabilitation and other VA programs expressly covered by the Act are extremely valuable ones. However, we can foresee that debates over the relative merits of programs for various constituencies would generate ill will among competing interests and erode support for the Act. The current exemptions for VA benefits and services already place disabled veterans and their survivors in a deservedly preferred category.

On the other hand, the Administration would support legislation that would prospectively exempt two important veterans' programs: the special therapeutic and rehabilitation activities fund, and the Canteen Service revolving fund. These two funds are self-financing and their exemption would not adversely affect the budget deficit.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

THOMAS K. TURNAGE
Administrator

CHANGES IN EXISTING LAW MADE BY S. 2885 AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

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PART II—GENERAL BENEFITS

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CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

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§ 618. Therapeutic and rehabilitative activities

(a) * * *

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(c)(1) * * *

* * * * * * *

(4) Moneys in the fund shall be paid, except as otherwise provided by a law enacted in express limitation of this paragraph, in accordance with this section and other laws administered by the Veterans' Administration and without regard to any law providing for the cancellation of authority to make payments.

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CHAPTER 19—INSURANCE

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SUBCHAPTER IV—GENERAL

781. Replacement of surrendered and expired insurance.
782. Administrative cost.
783. Settlements for minors or incompetents.
784. Suits on insurance.
785. Decisions by the Administrator.
786. Deposits in and disbursements from trust funds.
787. Penalties.
788. Savings provision.
789. Laws governing making of loans.

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Subchapter IV—General

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§ 788. Savings provision

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§ 789. Laws governing making of loans

Loans under any insurance program administered by the Administrator shall be made, except as otherwise provided by a law enacted in express limitation of this section, in accordance with this chapter and other laws administered by the Veterans' Administration and without regard to any law providing for the cancellation of direct loan obligations.

CHAPTER 21—SPECIALLY ADAPTED HOUSING FOR DISABLED VETERANS

Sec.
801. Veterans eligible for assistance.
802. Limitations on assistance furnished.
803. Furnishing of plans and specifications.
804. Benefits additional to benefits under other laws.
805. Nonliability of United States.
806. Mortgage Protection Life Insurance.
807. Laws governing benefits.

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§ 806. Mortgage Protection Life Insurance

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§ 807. Laws governing benefits

Benefits under this chapter shall be provided, except as otherwise provided by a law enacted in express limitation of this section, in accordance with this chapter and other laws administered by the Veterans' Administration and without regard to any law providing for the cancellation of authority to make payments.

CHAPTER 23—BURIAL BENEFITS

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§ 907. Death from service-connected disability

(a) In any case in which a veteran dies as the result of a service-connected disability or disabilities, the Administrator, upon the request of the survivors of such veteran, shall pay the burial and funeral expenses incurred in connection with the death of the veteran in an amount not exceeding the greater of (1) $1,100, or (2) the amount authorized to be paid under section 8134(a) of title 5 in the case of a Federal employee whose death occurs as the result of an injury sustained in the performance of duty. Funeral and burial benefits provided under this section shall be in lieu of any benefits authorized under sections 902 and 903(a)(1) and (b) of this title.

Benefits under this section shall be provided, except as otherwise provided by a law enacted in express limitation of this subsection, in accordance with this section and other laws administered by the

Veterans' Administration and without regard to any law providing for the cancellation of authority to make payments.

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PART III—READJUSTMENT AND RELATED BENEFITS

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CHAPTER 39—AUTOMOBILES AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES

Sec.
1901. Definitions.
1902. Assistance for providing automobile and adaptive equipment.
1903. Limitations on assistance; special training courses.
1904. Research and development.
1905. Laws governing benefits.

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§ 1904. Research and development

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§ 1905. Laws governing benefits

Benefits under this chapter shall be provided, except as otherwise provided by a law enacted in express limitation of this section, in accordance with this chapter and other laws administered by the Veterans' Administration and without regard to any law providing for the cancellation of authority to make payments.

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PART V—BOARDS AND DEPARTMENTS

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CHAPTER 75—VETERANS' CANTEEN SERVICE

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§ 4205. Revolving fund

(a) The revolving fund shall be deposited in a checking account with the Treasury of the United States. Such amounts thereof as the Administrator may determine to be necessary to establish and maintain operating accounts for the various canteens may be deposited in checking accounts in other depositaries selected by the Administrator.

(b) Moneys in the revolving fund shall be expended, except as otherwise provided by a law enacted in express limitation of this subsection, in accordance with this chapter and other laws administered by the Veterans' Administration and without regard to any law providing for the cancellation of authority to make payments.

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